

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

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FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
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~~the donor is included or a driver's license on which a designation is made by organ donor decal, code or notation as provided in Title 29-A, section 1402-A. If the donor cannot sign, the document may be signed for him the donor at his the donor's direction and in his the donor's presence, and in the presence of 2 witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.~~

Sec. 2. 22 MRSA §2911, as enacted by PL 2003, c. 394, §1 and affected by §6, is amended to read:

§2911. Honor intent of organ donors

1. General rule. The intention of a person to make a donation of that person's own body organ or tissue after death must be honored. In the absence of a ~~written statement overriding donor intent in accordance with subsection 2, or~~ revocation or amendment of the donor's execution of the intent to donate under section 2906, Title 18-A, Article 5, Part 8 or Title 29-A, section 1402-A, health care providers licensed in this State and federally designated organ procurement organizations shall act in accordance with the donor's intention and may take appropriate actions to effect the gift.

~~**2. Overriding donor intent.** Next of kin to a person who has expressed intent to donate that person's own body organ or tissue after death may override the intention of the donor in accordance with this subsection by executing a written statement, witnessed by a person who is not a relative of the donor. The written statement must indicate that the signer has discussed honoring the intent of the organ donor with a representative of an organ procurement organization and must include:~~

~~A. An indication that the donor revoked or altered the statement of intent to donate, as provided in section 2906 or Title 18-A, Article 5, Part 8. Next of kin acting under this paragraph shall provide evidence of revocation or alteration by the donor after the date of the donor's expressing a willingness or intention to donate; or~~

~~B. An indication of the decision of the signer to override the expressed intention of the donor.~~

~~If more than one person qualifies as next of kin and also qualifies to execute an anatomical gift of all or part of the decedent's body under this chapter or any other provision of law, the document used to override donor intent must show the agreement of a majority of those persons at the level of priority of the signer under Title 18-A, section 5-805 or Title 22, section 2902, subsection 2.~~

Sec. 3. 29-A MRSA §1402-A, sub-§4, ¶E, as enacted by PL 2003, c. 394, §4 and affected by §6, is amended to read:

E. Notwithstanding Title 22, section 1711-C and any other provision of law to the contrary, a health care provider licensed in this State to provide primary health care shall provide information to a federally designated organ procurement organization regarding a patient who has indicated a willingness to become an organ donor under this section, Title 18-A, Article 5, Part 8 or Title 22, chapter 710 if such information is provided in accordance with professional standards applicable to organ donation ~~and if donor intent has not been overridden pursuant to Title 22, section 2911, subsection 2.~~

See title page for effective date.

CHAPTER 209

H.P. 805 - L.D. 1162

An Act To Permit the Establishment of Regional Water Councils

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain grants may be immediately available to regional water councils that will facilitate the purposes of this Act, and the Legislature believes it is important that these funds be accessed and used as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA c. 68 is enacted to read:

CHAPTER 68

REGIONAL WATER COUNCILS

§6801. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Regional water council. "Regional water council" means a nonprofit corporation established for the benefit of 2 or more water utilities pursuant to this chapter.

§6802. Regional water councils authorized

Two or more water utilities may organize a regional water council by forming a nonprofit corporation under Title 13-B, the membership of which is restricted to water utilities. A water utility is not required to become a member of a regional water council.

§6803. Council organization

The organizational documents of a regional water council must provide for representation of each member. The documents must specify the organizational structure, the method of withdrawal, the method of terminating the council and the grounds for suspension of member water utilities.

§6804. Powers

1. Powers. A regional water council may:

A. Study an issue common to 2 or more of the members of the regional water council that it considers appropriate, including, but not limited to, matters affecting water supply, watershed protection, water use policies, regional economic conditions and future development;

B. Promote cooperative arrangements and coordinate action among members of the regional water council, including, but not limited to, providing purchasing, billing, accounting and customer services;

C. Make recommendations for review and action to the members of the regional water council and other public agencies that perform functions within the region; and

D. Exercise its powers and authority as a nonprofit corporation under Title 13-B as necessary or desirable for dealing with issues of local or regional significance to its members, except that it may not exercise any power or authority that would cause the regional water council to become a water utility within this State.

2. Status. A regional water council is a nonprofit corporation and is not a governmental entity and is subject to all laws governing nonprofit corporations.

3. Standing committee. A regional water council, by appropriate action of the governing bodies of its members, may establish a standing committee to prepare and maintain a comprehensive regional water plan.

§6805. Bylaws

A regional water council shall adopt bylaws designating the officers of the council and providing for the conduct of its business.

§6806. Staff

A regional water council may employ staff and consult and retain experts that it considers necessary.

§6807. Finances; annual report

1. Expenses. The member water utilities of a regional water council may contribute funds to meet the expenses of the council. Services of personnel, use of equipment and office space and other necessary services may be accepted from members as part of their financial support.

2. Funds; limitation. A regional water council may accept funds, grants, gifts and services from:

A. The Federal Government;

B. The State or its departments, agencies or instrumentalities;

C. Any governmental unit not specified in paragraph A or B, whether participating in the regional water council or not; and

D. Private and public sources.

A fund, grant, gift or service of the State or its departments, agencies or instrumentalities otherwise available to water utilities may not be made conditional on a water utility's membership in a regional water council.

3. Report. A regional water council shall make an annual report of its activities to the member utilities. The report must be filed with the Public Utilities Commission and the drinking water program of the Department of Health and Human Services.

§6808. Coordinator

1. Public Utilities Commission. The commission may receive, obtain and distribute state, federal or other funds supporting regional water council tasks and may provide assistance to regional water councils as appropriate. This subsection does not require the commission to determine the appropriate disbursement of state, federal or other funds among members of a regional water council and does not prohibit a regional water council from obtaining, receiving or disbursing funds without commission involvement.

Nothing in this chapter limits the commission's jurisdiction or authority over water utilities that are members of regional water councils.

2. Rulemaking. The commission may adopt rules to establish procedures and audit requirements related to the requirements of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 24, 2005.

CHAPTER 210

S.P. 472 - L.D. 1374

An Act To Require a Surcharge on Probate Documents

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 18-A MRSA §1-607 is enacted to read:

§1-607. Surcharge for restoration, storage and preservation of records

(1) In addition to any other fees required by law, a register of probate shall collect a surcharge of \$10 per petition, application or complaint, except for name changes, filed in the Probate Court.

(2) The surcharge imposed in subsection (1) must be transferred to the county treasurer, who shall deposit it in a separate, nonlapsing account within 30 days of receipt. Money in the account is not available for use as general revenue of the county. Interest earned on the account must be credited to the account.

(3) The money in the account established in subsection (2) must be used for the restoration, storage and preservation of the records filed in the office of the register of probate and in Probate Court. No withdrawals from this account may be made without the express written request or approval of the register of probate.

(4) The judge of probate may waive the surcharge in subsection (1) if the judge believes that it will prove a hardship for the individual filing the petition, application or complaint.

See title page for effective date.

CHAPTER 211

H.P. 883 - L.D. 1286

An Act To Require Additional Disclosure Regarding Private Mortgage Insurance

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 33 MRSA §506 is enacted to read:

§506. Disclosure regarding private mortgage insurance

With respect to a mortgage loan on residential real property for which the processor or underwriter of that loan also engages in the business of private mortgage insurance, a supervised lender, as defined in Title 9-A, section 1-301, subsection 39, or a credit services organization, as defined in Title 9-A, section 10-102, shall disclose to the loan applicant at the time of application the fact that the processor or underwriter is also in the business of private mortgage insurance. Failure to provide the disclosure required by this section does not annul, alter or affect the validity or enforceability of the mortgage loan.

See title page for effective date.

CHAPTER 212

H.P. 1029 - L.D. 1466

An Act To Amend the Law Governing Spill Prevention Control and Countermeasure Regulation of Oil Storage Facilities

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §570-K, sub-§5, as amended by PL 2003, c. 245, §19, is further amended to read:

5. Spill prevention and control. An above-ground oil storage facility used in the marketing and distribution of oil to others must be operated in compliance with the federal requirements for the preparation and implementation of spill prevention control and countermeasure plans under 40 Code of Federal Regulations, 112 in effect on April 17, 2003. Failure to comply with those federal requirements in accordance with the deadlines set by the United States Environmental Protection Agency constitutes a violation of this Title. If the department believes that a facility's plan does not satisfy those federal requirements, the department shall request an opinion from